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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/573,683 | 05/03/2006 | Gerard Orriere | 475.006 | 7128 |
| 47888 7590 11/19/2009 HEDMAN & COSTIGAN P.C. 1185 AVENUE OF THE AMERICAS NEW YORK, NY 10036 | | | | |
| EXAMINER | | | | |
| FETSUGA, ROBERT M | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 3751 | | | | |
| MAIL DATE | | DELIVERY MODE | | |
| 11/19/2009 | | PAPER | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/573,683

Applicant(s)

ORRIERE, GERARD

Examiner

Robert M. Metsuga

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-19 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 03 May 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/GS/US)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

1. The drawings are objected to because reference numeral "11" in Fig. 7 apparently should be --11'-- (or equivalent) to designate structure different than Fig. 6, and reference numeral "11" in Figs. 8-12 apparently should be --11''-- (or equivalent) to designate structure different than Fig. 7.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "means of anchoring" set forth in claim 1, "locking means" set forth in claim 4, and "control means" set forth in claim 9, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of

the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Proper antecedent basis for the "frame" set forth in claim 1, "locking means" set forth in claim 4, "fastening devices" set forth in claim 6, "drive means" set forth in claim 8, "articulated engagement" feature and "control means" set forth in claim 9, and "double-acting power cylinder" set forth in claim 16, could not be found in the specification. Applicant is reminded claim terminology in mechanical cases should appear in the descriptive portion of the specification by reference to the drawing(s).

3. Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is unclear as to whether the "body of water" is intended to be part of the claimed combination since structure of the "barrier" is defined as being connected thereto (ln. 3), but no positive structural antecedent basis therefor has been defined. The claim is unclear as to whether the "support" (ln. 5) is intended to be part of the claimed combination as the feature currently is only inferentially included therewith (ln. 10). The claim is unclear as to the relationship between the "pair of panels" on lines 8-9, and the "fencing panel" on line 6 thereof.

Claim 2 is unclear as to the relationship between the "box" on line 2 thereof, and the "support" on line 10 of claim 1.

Claim 6 is unclear as to the relationship between the "abutted panels" on line 3 thereof, and the "pair of panels" on lines 8-9 of claim 1. The claim is unclear as to the relationship between the "fastening devices" on line 3 thereof, and the "pivotably articulated" feature on line 9 of claim 1.

Claim 10 lacks sufficient antecedent basis for "said power cylinder".

Claim 12 is unclear as to the relationship between the "first" and "second" ramps on lines 3 and 5 thereof, and the "ramps" on line 3 of claim 11.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The Bain, Hoke and Broyles references disclose various articulated panels having features in common with the instant invention.

5. Claims 1-19 are free of the prior art of record.

6. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

7. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 571/272-4886 who can be most easily reached Monday through Thursday. The Office central fax number is 571/273-8300.

/Robert M. Fetsuga/
Robert M. Fetsuga
Primary Examiner
Art Unit 3751